

**MEMO ENDORSED**

OCT 14 2009

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO  
ATTORNEY GENERAL

*Writer's Direct Dial:*  
(212) 416-8965

Via Mail

Hon. Frank Maas  
United States Magistrate Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 10-14-09 October 13, 2009

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

*We will discuss this application at the October 28th conference.*

*F/Maas, USMS/J,  
10/14/09*

**Re: Combier v. State of New York et al.**  
**S.D.N.Y. Case No. 09 Cv. 5314**

Dear Judge Maas:

This Office represents the State of New York; former Governor Eliot Spitzer; the Supreme Court of the State of New York, Appellate Division, First Department; the State Court judges sued herein; and State Court personnel (collectively "State Defendants") sued in the above-referenced action. By orders dated August 28, 2009 and September 15, 2009, the Hon. Richard J. Holwell referred this case to Your Honor for general pre-trial purposes as well as for a report and recommendation on dispositive motions. Plaintiff pro se Elizabeth Combier moved to oppose this referral on the grounds of the Magistrate's alleged conflict of interest but her application was recently denied by Judge Holwell.

Pursuant to your Individual Practices, a pre-motion conference is required prior to any motion to dismiss. State Defendants now write to ask that this Court schedule a pre-motion conference in this case or permit State Defendants to move to dismiss the Amended Complaint on or before November 13, 2009 without requiring a pre-motion conference.

**Brief Procedural History of Case**

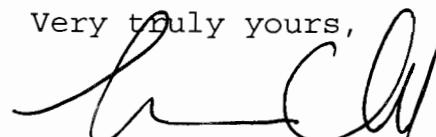
By letter to Judge Holwell dated June 25, 2009, prior

to the expiration of State Defendants' time to respond to the Complaint, State Defendants requested a pre-motion conference in order to obtain leave to file a pre-answer motion to dismiss. Pursuant to Judge Holwell's individual practices, a conference or leave to move was required prior to filing a motion and the request tolled the State Defendants' time to respond to the Complaint. Judge Holwell has now referred the case to Your Honor and we ask for leave to move to dismiss.

**State Defendants Have Grounds for Meritorious Motion to Dismiss**

State Defendants should be granted leave to move to dismiss as such a motion would have substantive merit. Plaintiff sues the State, various state courts, state court personnel, judges and even a former Governor, alleging a vast conspiracy to violate her constitutional rights and to deny her probate of her late mother's will, as well as to intentionally inflict emotional distress upon her. See Amended Complaint at ¶ 100, 110-117. Although the various claims asserted by plaintiff are too numerous to address each one in the context of this letter, her claims are in general subject to dismissal on a number of grounds, including but not limited to: (1) the statute of limitations; (2) Eleventh Amendment immunity; (3) absolute judicial and quasi-judicial immunity; (4) qualified immunity; (5) the Rooker-Feldman doctrine; (6) the Younger abstention doctrine; and (7) failure to state a claim upon which relief may be granted.

For these reasons, State Defendants respectfully request that this Court either schedule a pre-motion conference or waive such requirement and instead grant State Defendants until November 13, 2009 to serve and file a motion to dismiss plaintiff's Amended Complaint.

Very truly yours,  
  
Monica Connell (MC9841)  
Assistant Attorney General

cc: Elizabeth Combier, Plaintiff Pro Se (Via Mail)  
Kenneth T. Wasserman, Esq. (Via Mail)  
Jeffery H. Sheetz, Esq. (Via Mail)  
Eli Uncyk, Esq. (Via Mail)